

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

WP(C).No. 4258 of 2005(F)

PETITIONERS:

- 1. WILSON K., ANDANKULANGARA THADATHARIKATH
HOUSE, PANNICODE P.O., VERANKAVU VILLAGE,
NEDUMANGAD TALUK.**
- 2. VASU PILLAI S/O. KUTTAN PILLAI,
VANDANA BHAVAN, PARAICONAM KIZHAKKEKARA
PUTHENVEEDU, NEYYAR DAM P.O.,
THIRUVANANTHAPURAM DISTRICT.**
- 3. S.VIMALAKUMARI, D/O. L.L.SORNAMMA,
ANANDA VIHAR, CHEENIVILA, NEYYAR DAM P.O.,
THIRUVANANTHAPURAM DISTRICT.**
- 4. M.RADHA D/O. MADHAVI, KOLIYAKKODU
ROADARIKATHU VEEDU, NEYYAR DAM P.O.**
- 5. JAGATHAMMA ALIAS JAGATHA D/O. LISSY,
KOLIYAKKODU ROADARIKATHU VEEDU,
NEYYAR DAM P.O.**
- 6. SUDHAKARA ALIAS MANIYAN S/O. BHASKARAN,
KANNANKALA PUTHEN VEEDU, NOW AT VILLIYODU
THOTTUMKARA VEEDU, NEYYAR DAM P.O.**
- 7. M.SOMAN S/O. MADHAVA PANICKER,
MAMANKARA PUTHENVEEDU, NEYYAR DAM P.O.**
- 8. RAJAMMA S., D/O. SUNDARI,
KOLIYAKKODU ROADARIKATHU VEEDU, NEYYAR DAM P.O.**
- 9. P.SURENDRAN S/O. PRABHAKARA PANICKER
SUNEESH BHAVAN, NEYYAR DAM P.O.**
- 10. SASI K., DILI BHAVAN,
NEDUVANTHARATTA MURI, VEERANAKARA VILLAGE.**

**11. SOMAN M., SAJI BHAVAN,
KOLIYAKKADU KATTIKKADU VILLAGE,
NEYYATTINKARA TALUK.**

BY ADV. SRI.T.H.ABDUL AZEEZ

RESPONDENTS:

**1. STATE OF KERALA REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT, SECRETARIAT
THIRUVANANTHAPURAM.**

**2. CHIEF ENGINEER, IRRIGATION AND
ADMINISTRATION, THIRUVANANTHAPURAM**

**3. EXECUTIVE ENGINEER, IRRIGATION DIVISION,
THIRUVANANTHAPURAM.**

**4. ASSISTANT EXECUTIVE ENGINEER,
CHANNEL SUB DIVISION, NEYYATTINKARA.**

BY GOVERNMENT PLEADER SRI.P.NANDAKUMAR FOR R1 AND R2

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/08/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONERS EXHIBITS

EXT.P1: TRUE COPY OF THE GOVERNMENT ORDER NO.(P) NO.6/90/PW&T DATED 20.1.1990.

EXT.P2: TRUE COPY OF THE PROFORMA OF the SENIORITY LIST OF THE CLR WORKERS.

EXT.P3: TRUE COPY OF THE JUDGMENT DATED 1.7.2004 IN OP NO.28483 OF 1999(N) OF THIS HON'BLE COURT.

EXT.P4: TRUE copy OF THE JUDGMENT DATED 12.2.2004 IN OP NO.10746/OF 2001 (D) OF THIS HON'BLE COURT.

EXT.P5: TRUE COPY OF THE ORDER NO.C5-13746/2001/DATED 5.6.2004 OF THE 2ND RESPONDENT.

EXT.P6: TREU COPY OF THE ORDER G.O(RT) NO.1338/04/WRD DATED 15.11.05 PASSED BY THE GOVERNMENT.

EXT.P7: TRUE COPY OF THE PROCEEDINGS NO.C1-32262/99 DATED 22.11.1999 OF THE 2ND RESPONDENT.

EXT.P8: TRUE COPY of THE NEWS ITEM PUBLISHED BY RASHTRA DEEPIKA DAILY DATED 20.1.2005.

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 4258 OF 2005
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Dated this the 13th day of August, 2007

J U D G M E N T

Petitioners claim that they were Casual Labour Roll Workers at the Neyyar Dam site prior to 19.5.1983. Claiming benefit of Ext.P1 Government Order, seeking to have Ext.P6 quashed and to direct the respondents to regularise their services under the Irrigation Department, based on Ext.P2 seniority list, this writ petition is filed.

2. Ext.P1 is the Government Order dated 20.1.1990, which interalia provided for the appointment of CLR Workers to regular worker (SLR) posts provided they were in service on or before 19.5.1983 and have put in a minimum service of 500 days as on 1.4.1987. It also provides that those CLR Workers appointed on or before 19.5.1983 and have not completed 500 days of service as on 1.4.1987 will be eligible for absorption as SLR worker according to the orders

in G.O(P) No.106/85/PW&T dated 17.9.1985, but they will not be eligible for appointment to regular posts.

3. Petitioners are claiming the benefit of the aforesaid clause on the basis that they have the required length of service. On an earlier occasion, they had filed OP No.10746/01 claiming the relief of regularisation and the original petition was disposed of by Ext.P4 judgment directing the Chief Engineer to dispose of their representations. It is stated that thereafter the Chief Engineer forwarded the matter to the Government with Ext.P5, a favourable report. But however, by Ext.P6 the Government turned down their request. It is challenging Ext.P6 and seeking consequential reliefs that this writ petition is filed.

4. Counter affidavit has been filed by the respondents, in which it is stated that it was not the Irrigation Department as pleaded by the petitioners, but the Public Works Department, which was authorised to prepare

and publish the seniority list of CLR Workers, subject to the conditions in Ext.P1 Government Order. It is stated that accordingly a list was prepared and published by the Public Works Department and CLR workers were regularised on that basis. It is stated that Ext.P2 list produced by the petitioners is not a seniority list , but is only a statement prepared by the then Assistant Engineer at the Neyyar Dam Site and that although a thorough search was made in the office of the Assistant Engineer, no reliable documents such as M. Books, CL Rolls etc., which are the basic and authentic documents regarding the engagement of CLR workers, could be traced out. Therefore on this basis, Government contented that Ext.P2 was not a reliable list and cannot acted upon for regularisation purposes.

5. Two conditions that are prescribed in Ext.P1 are that one should be in service as CLR on or before 19/5/1983 and completion of 500 days as on 01.04.1987 to be appointed to regular service SLR posts. Similarly, those who

were appointed on or before 19/5/1983 and who have not completed 500 days as on 1/4/1987 will be ineligible only for absorption as CLR also. In so far as this case is concerned, Ext.P2 only shows that the petitioners were engaged for some time prior to 19.5.1983. Whatever be the worth of it, according to the Government, in the absence of supporting documents, Ext.P2 cannot be acted upon and such a conclusion of the Government cannot be said to be arbitrary in any matter. Ext.P6 also shows that the claim of the petitioners was that they have worked for a period ranging from 4 to 23 days as on 31/5/2000. Therefore, they have no case that they continued as CLR beyond 19/5/1983 and completed the number of days as on 01/04/1987. If that be so, the case of the petitioners do not answer the requirements of Clause 2(iv) of Ext.P1 Government Order.

6. In so far as Ext.P5 relied on by the petitioners as a favourable report of the Chief Engineer is concerned, I notice that the Government is the competent authority to

include the petitioners in the seniority list and absorb them as SLR workers. For that reason, the Chief Engineer only decided to take up the case of the petitioners with the Government for appropriate decision after obtaining verified relevant details of the petitioners from the Assistant Executive Engineer, Channel Sub Division, Neyyattinkara. It was only a report and not a recommendation as contented by the petitioners. Further, this report was subject to availability of relevant details from the Assistant Executive Engineer, which as already stated, were not available. In the result, Ext.P5 itself does not improve the case of the petitioners.

7. In Para 5 of the writ petition, petitioners make reference to the case of certain persons who were included in Ext.P2 and contend that they were regularised on the basis of their inclusion in Ext.P2. On this basis, it is argued that the contention of the Government that Ext.P2 is unworthy of reliance is not correct. This contention of the

petitioners is answered by the respondents in Para 4 of the counter, where they plead that it was not on account of their inclusion in Ext.P2 that they were regularised, but by virtue of their inclusion in the State wise seniority list prepared by the Chief Engineer, PWD (Administration), and also stated that the persons who were regularised as above had also satisfied the requirements laid down in Ext.P1 Government Order. In the light of the specific contention raised in the counter affidavit, I do not find any merit in the above averments in Para 5 of the writ petition as well.

For these reasons, I do not find any illegality in Ext.P6. Writ petition is accordingly dismissed.

ANTONY DOMINIC, JUDGE.

Rp